IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.779 OF 2004

Shri.Vijay Amrutlal Parekh ..Petitioner

Vs.

Smt.Manjula Sonmal Jain
& Anr. ..Respondents

...
Mr. B.G.Tangsali Advocate for Petitioner
Mr. R.S.Khadapkar A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 29,2005

P.C.

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The complaint has been filed against the petitioner under Section 138 of Negotiable Instruments Act. The said complaint is filed before the learned C.J.M. Alibag which is numbered as RCC No.2 of 2003.

3. The learned advocate for the petitioner has submitted that in the present case the complaint was not filed by duly authorised person or by power of attorney holder and hence, the said complaint

deserves to be quashed. In the order of the learned Magistrate, it is clearly reflected that the complainant has also produced on record the power of attorney executed in his favour by his mother. In such case, it is clear that the complaint was filed by the power of attorney holder. Thus, I do not find much merit in this submission.

4. Thereafter, the learned advocate for the petitioner has submitted that the complaint filed by the power of attorney holder was not tenable. In the decision of the Supreme Court in the case of **M/s.M.M.T.C.Ltd. and another Vs. Medchi Chemicals and Pharma (P) Ltd. and Anr. [A.I.R.2002 SC 182],** it has been observed that merely because the complaint is signed by a person who is neither authorised agent nor a person empowered, is no ground to quash the complaint. This Court in the case of **Mr.Suresh Srinivasan Iyenger Vs. The State of Maharashtra & Ors.[1998(4) Bom.C.R.589]**, has held that holder of power of attorney can file a complaint. In the case of **M/s.Ruby Leather Exports Vs. K.Venu Rep.Vandana Chemicals etc.**

[III-1994(1) CRIMES 820] it has been held that the power of Attorney holder can file a complaint on behalf of payee or holder in due course. In view of the decisions mentioned above, I find no merit in this petition and the same is rejected.

[V.K.TAHILRAMANI,J.]